

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **NOTICE OF PROPOSED REGULATORY ACTION**

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5  
AMEND ARTICLE 7.5, SECTION 1239

### **COMMERCIAL VEHICLE SAFETY ALLIANCE NORTH AMERICAN STANDARD OUT-OF-SERVICE CRITERIA (CHP-R-04-06)**

The California Highway Patrol (CHP) proposes to adopt by reference the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, January 1, 2004, in Title 13, California Code of Regulations (13 CCR). The current regulation adopts by reference the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2002.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Section 34501(a)(1) of the California Vehicle Code (VC) authorizes the CHP to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in Section 34500 VC. The CHP's authority to adopt regulations includes, but is not limited to, controlled substances and alcohol testing of drivers by motor carriers, drivers hours-of-service qualifications, equipment, fuel containers, fuel operations, inspection, maintenance, record keeping, accident reports and drawbridges. Section 2402 VC provides the Commissioner with the authority to "make and enforce such rules and regulations as may be necessary to carry out the duties of the Department" and Section 2410 VC provides the authority for the CHP to place vehicles out of service (Attorney General's Opinion NS 2520) in order to "ensure safety." Current regulations, adopt by reference the Commercial Vehicle Safety Alliance North America Standard Out-of-Service Criteria, April 1, 2002 Edition, and apply to those vehicles listed in Sections 260, 322, 15210 and 34500.

The intent of these regulations is to adopt specific uniform criteria for determining whether or not a vehicle and/or driver, inspected by a member of the CHP, is in such an unsafe condition that they are likely to constitute a hazard on a highway. These regulations will incorporate by reference specified portions of the standards contained within the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, January 1, 2004 Edition. Adoption of this criteria will continue to provide consistency throughout California, with neighboring states, Canada and Mexico, and provide a regulatory basis for enforcement efforts as they relate to commercial vehicle out-of-service criteria.

## **PUBLIC COMMENTS**

Any interested person may submit written comments on this proposed action via facsimile at (916) 446-4579, by email to [cvsregs@chp.ca.gov](mailto:cvsregs@chp.ca.gov), or by writing to:

CHP, Enforcement Services Division  
Commercial Vehicle Section  
ATTN: Officer Kevin Gibbons  
P. O. Box 942898  
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 PM, July 12, 2005, or at the scheduled hearing

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section, no later than 15 days prior to the close of the written comment period.

## **AVAILABILITY OF INFORMATION**

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 446-4579 or by calling the CHP, Commercial Vehicle Section, at (916) 445-1865. All requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the requestors information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, Commercial Vehicle Section, 444 North Third Street, Suite 310, Sacramento, California. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our web site at [www.chp.ca.gov/regulations](http://www.chp.ca.gov/regulations).

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our web site.

## **CONTACT PERSON**

Any inquiries concerning the written materials pertaining to the proposed regulations or questions regarding the substance of the proposed regulations should be directed to Officer Kevin Gibbons or Lieutenant Steve Dowling, CHP, Commercial Vehicle Section, at

### **ADOPTION OF PROPOSED REGULATIONS**

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or non-substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

### **FISCAL AND ECONOMIC IMPACT**

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency, school district, state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The California Highway Patrol is not aware of any cost impacts that a private person or business would necessarily incur in reasonable compliance with the proposed action.

### **EFFECT ON SMALL BUSINESSES**

The California Highway Patrol has determined that the proposed regulatory action has minimal affect on small businesses.

### **ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

### **AUTHORITY**

This regulatory action is being taken pursuant to Sections 2402, 2410, 31401 and 34501(a) VC.

## **REFERENCE**

This action implements, interprets, or makes specific Sections 260, 322, 2402, 2410, 12500, 12502, 12515(b), 14603, 15210, 15250, 15275, 15278, 23152, 24002, 24400, 24252, 24600, 24603, 24604, 24952, 27154, 27155, 27465, 27501, 27903, 29001, 29002, 29003, 29004, 31401, 34500, 34501, 34506 and 34510 VC.

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A. S. CUEVAS, Chief  
Enforcement Services Division